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DEPARTMENT OF COMMERCE

International Trade Administration

(A-428-843, A-588-872, A-570-996, A-401-809)

Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that non-oriented electrical steel (NOES) from Germany, Japan, the People's Republic of China (the PRC), and Sweden is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final estimated weighted average dumping margins are shown in the "Final Determinations" section of this notice.

EFFECTIVE DATE: Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor at (202) 482-0989

(Germany); Thomas Martin at (202) 482-3936 (Japan); Yang Jin Chun at (202) 482-5760 (the PRC); or Drew Jackson at (202) 482-4406 (Sweden); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

Background

On May 22, 2014, the Department published its preliminary affirmative determinations of sales at LTFV and preliminary affirmative determinations of critical circumstances, in part, in

the LTFV investigations of NOES from Germany, Japan, Sweden,¹ and the PRC.² We invited interested parties to comment on our preliminary determinations. We received no comments in the investigations of NOES from Germany, Sweden, and the PRC. We received case and rebuttal briefs in the investigation of NOES from Japan. On June 23, 2014, we received case briefs from Marubeni Itochu Steel America Inc. and Nippon Steel & Sumitomo Metal Corporation. On June 30, 2014, we received a rebuttal brief from AK Steel Corporation (Petitioner). On July 2, 2014, we postponed the final determinations of these LTFV investigations to October 6, 2014.³

Period of Investigations

The period of investigation for the investigations of NOES from Germany, Japan and Sweden is July 1, 2012, through June 30, 2013. The period of investigation for the investigation of NOES from the PRC is January 1, 2013, through June 30, 2013.

Scope of the Investigations

The merchandise subject to these investigations consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10

¹ See *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014) (*Preliminary Determinations*).

² See *Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 79 FR 29421 (May 22, 2014) (*Preliminary Determination PRC*).

³ See *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, and Sweden: Postponement of Final Determinations of Sales at Less Than Fair Value*, 79 FR 37718 (July 2, 2014).

Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B₈₀₀ value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to these investigations whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of this investigation is not limited to merchandise meeting the ASTM, JIS and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of these investigations are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the

HTSUS. Although HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope is dispositive.

Verification

Because none of the mandatory respondents in the investigations of NOES from Germany, Japan, and Sweden provided information requested by the Department and because the Department preliminarily determined that each of the mandatory respondents in these investigations had been uncooperative,⁴ the Department did not conduct verifications. Additionally, the only party in the investigation of NOES from the PRC, the PRC-wide entity, did not cooperate to the best of its ability.⁵ Accordingly, the Department did not conduct a verification in the PRC investigation.

Analysis of Comments Received

Because we received no comments in the investigations of NOES from Germany, Sweden, and the PRC, we made no changes to the *Preliminary Determinations* with respect to these investigations. All issues raised in the case and rebuttal briefs filed by parties in the Japan investigation are addressed in the Japan Issues and Decision Memorandum.⁶ A list of the issues that parties raised and to which we responded is in the Japan Issues and Decision Memorandum and attached to this notice as an appendix. The Japan Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and it is available to all parties in the

⁴ See *Preliminary Determinations*, 79 FR at 29425.

⁵ See *Preliminary Determination PRC*, 79 FR at 29422.

⁶ See the Memorandum from Deputy Assistant Secretary Christian Marsh to Assistant Secretary Paul Piquado entitled "Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value for Non-Oriented Electrical Steel from Japan" dated concurrently with and adopted by this notice (Japan Issues and Decision Memorandum).

Central Records Unit, room 7046, of the main Department of Commerce building. In addition, a complete version of the Japan Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

Changes Since the Preliminary Determinations

Based on a review of the record and comments received from interested parties, we made one revision to our preliminary determination in the investigation of NOES from Japan. As discussed below in the “Final Affirmative Determinations of Critical Circumstances, in Part” section, we do not find there to be massive imports for the non-individually examined companies receiving the “All Others” rate in the investigation of NOES from Japan, pursuant to section 735(a)(3)(B) of the Act and 19 CFR 351.206(h). Accordingly, we no longer find that critical circumstances exist for the non-individually examined companies receiving the “All Others” rate in the Japan investigation. We made no changes to our preliminary determinations in the LTFV investigations of NOES from Germany, Sweden, or the PRC.

Final Affirmative Determinations of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, we preliminarily found critical circumstances exist with respect to each of the mandatory respondents in the investigations of NOES from Germany, Japan and Sweden, and for all other producers and exporters subject to the investigations of NOES from Japan and Sweden.⁷ With respect to all other producers and exporters subject to the investigation of NOES from Germany, including ThyssenKrupp Steel Europe AG, we preliminarily found that critical circumstances did not exist.⁸ In addition, in accordance with section 733(e)(1) of the Act, we preliminarily found that

⁷ See *Preliminary Determinations*, 79 FR at 29424.

⁸ *Id.*

critical circumstances exist with respect to the PRC-wide entity in the investigation of NOES from the PRC.⁹

As stated above, for the investigations of NOES from Sweden, Germany, and the PRC, we received no comments concerning the preliminary determinations. Thus, we continue to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist for all exporters and producers, including the mandatory respondent, of NOES from Sweden, and that critical circumstances exist for each of the mandatory respondents in the investigation of NOES from Germany. With respect to all other producers and exporters subject to the investigation of NOES from Germany, including ThyssenKrupp Steel Europe AG, we find that critical circumstances do not exist. Also, for the investigation of NOES from the PRC, we continue to find that, in accordance with section 735(a)(3) of the Act and 19 CFR 351.206, critical circumstances exist with respect to the PRC-wide entity.

For Japan, we received a comment that the Department should update the U.S. import statistics used in its critical circumstances analysis if additional data up through May 2014 (the month the preliminary determination was issued and published) are available. In response to this comment, in conducting our critical circumstances analysis for the final determination, we compared relevant import data for the comparison period October 2013 to May 2014 to data for the base period February 2013 to September 2013. Based on this comparison, we did not find an increase in imports of 15 percent or more during a “relatively short period” of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we do not find there to be massive imports for the non-individually examined companies receiving the “All Others” rate in the investigation of NOES from Japan, pursuant to section 735(a)(3)(B) of the Act and 19 CFR

⁹ See *Preliminary Determination PRC*, 79 FR at 29422.

351.206(h).¹⁰ Accordingly, while we continue to find that critical circumstances exist with respect to each of the mandatory respondents in the investigation of NOES from Japan, we find that critical circumstances do not exist for the non-individually examined companies receiving the “All Others” rate in the investigation of NOES from Japan under section 735(a)(3) of the Act and 19 CFR 351.206.

Use of Facts Available and Adverse Facts Available

As stated in the *Preliminary Determinations* and *Preliminary Determination PRC*, all mandatory respondents in the Germany, Japan, and Sweden proceedings and the PRC-wide entity in the PRC proceeding failed to cooperate to the best of their ability in providing requested information because they withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded these proceedings.¹¹ Accordingly, pursuant to sections 776(a)(2)(A), (B), and (C) and section 776(b) of the Act, we find it appropriate to assign the estimated weighted-average dumping margins in the table below, which are based on total adverse facts available.¹²

Final Determinations

As stated above, we made no changes to our preliminary LTFV determinations in the Germany, Japan, Sweden, and PRC investigations. Therefore, we continue to determine that the following estimated weighted-average dumping margins exist for the following producers or exporters for Germany, Japan, and Sweden during the period July 1, 2012, through June 30, 2013; and for the PRC wide-entity during the period January 1, 2013 through June 30, 2013:

¹⁰ See Memorandum from Thomas Martin to the File, “Non-Oriented Electrical Steel from Japan: U.S. Import Data Considered in Critical Circumstances Analysis for the Final Determination” dated October 6, 2014.

¹¹ See *Preliminary Determinations*, and accompanying Preliminary Decision Memorandum at 7-10; *Preliminary Determination PRC*, and accompanying Preliminary Decision Memorandum at 6-9.

¹² *Id.*

Germany

Producer or Exporter	Rate
CD Walzholz	98.84 %
Thyssenkrupp Electrical Steel EBG GMBH	98.84 %
All Others	86.29 %

Japan

Producer or Exporter	Rate
JFE Steel Corporation	204.79 %
Sumitomo Corporation	204.79 %
All Others	135.59 %

Sweden

Producer or Exporter	Rate
Surahammars Bruks AB	126.72 %
All Others	98.46 %

The People's Republic of China

Exporter	Rate
PRC-Wide Entity	407.52 %

All Others Rate

For Germany, Japan and Sweden, the “All Others” rate is based on a simple average of the dumping margins from the petition.¹³ For a full description of the methodology underlying our final determinations, *see* All Other Rate Memoranda¹⁴

Continuation and Partial Termination of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of NOES from Germany, Japan, the PRC, and Sweden, as described in the “Scope of the Investigations” section, for which critical circumstances have been found to exist, which were

¹³ See *Preliminary Determinations*, 79 FR at 29424.

¹⁴ See the Memorandum from Patrick O'Connor to the Germany Investigation File “Non-Oriented Electrical Steel from the Federal Republic of Germany: Calculation of All Others Rate, dated May 16, 2014; the Memorandum from Thomas Martin to the Japan Investigation File, “Non-Oriented Electrical Steel from Japan: Calculation of All Others Rate,” dated May 15, 2014; and the Memorandum from Drew Jackson to the Sweden Investigation File, “Non-Oriented Electrical Steel from Sweden: Calculation of All Others Rate” dated May 16, 2014 (collectively, All Others Rate Memoranda). See also, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan*, 73 FR 39673, 39674 (July 10, 2008) (where the Department determined the all others rate using a simple average of the alleged dumping margins from the petition).

entered, or withdrawn from warehouse, for consumption on or after February 21, 2014, 90 days prior to the date of publications of the *Preliminary Determinations* and the *Preliminary Determination PRC*, pursuant to section 733(e)(2) of the Act.

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to continue to suspend liquidation of entries of NOES from Germany, as described in the “Scope of the Investigations” section, from companies receiving the “All Others” rate, which were entered, or withdrawn from warehouse, for consumption on or after May 22, 2014, the date of publication of the *Preliminary Determinations*.

Because we no longer find that critical circumstances exist for the non-individually examined companies receiving the “All Others” rate in the investigation of NOES from Japan, the Department, in accordance with section 735(c)(3) of the Act, will instruct CBP to terminate the suspension of liquidation of relevant entries, as described in the “Scope of the Investigations” section, which were entered, or withdrawn from warehouse, for consumption prior to the date of publication of the *Preliminary Determinations* (*i.e.*, on or after February 21, 2014 through May 21, 2014), and to refund any cash deposit with respect to those entries of subject merchandise the liquidation of which was suspended retroactively under section 733(e)(2) of the Act. In accordance with sections 733(d)(2) and 735(c)(1)(B) of the Act, we will direct CBP to continue the suspension of liquidation of all entries of NOES from Japan, as described in the “Scope of the Investigations” section, from companies receiving the “All Others” rate which were entered, or withdrawn from warehouse, for consumption on or after May 22, 2014, the date of publication of the *Preliminary Determinations*.

Pursuant to section 735(c)(1) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for entries of NOES from Germany, Japan, and Sweden as follows: (1)

the cash deposit rates for mandatory respondents will be equal to the estimated weighted-average dumping margins that we have determined in these final determinations for these respondents; (2) if the exporter is not a mandatory respondent identified in the investigation but the producer is, the cash deposit rate will be the estimated weighted-average dumping margin established for the producer of the subject merchandise in these final determinations; and (3) the cash deposit rate for all other producers or exporters will be equal to the country-specific estimated weighted-average dumping margin for “All Other” producers and exporters determined in these final determinations. The instructions suspending liquidation will remain in effect until further notice.¹⁵

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.¹⁶ With regard to the PRC-wide entity, we find that an adjustment for export subsidies of 10.77 percent¹⁷ is warranted because this is the export subsidy rate included in the countervailing duty rate to which all entries from the PRC-wide entity are currently subject. We are not adjusting the final determination rate for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment. Thus, we will offset the estimated weighted-average

¹⁵ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

¹⁶ See sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department makes an adjustment for export subsidies in an LTFV investigation not in the calculation of the weighted-average dumping margin, but in the cash deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at comment 1.

¹⁷ The following subsidy programs countervailed in the final determination of the concurrent countervailing duty investigation are export subsidies: Preferential Export Financing from the Export-Import Bank of China (1.06 percent) and Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises (9.71 percent). See *Non-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, and the accompanying Issues and Decision Memorandum at 8, signed concurrently with this notice.

dumping margin for the PRC-wide entity of 407.52 percent by the countervailing duty rate attributable to export subsidies (*i.e.*, 10.77 percent) to calculate the cash deposit *ad valorem* rate for the PRC-wide entity of 396.75 percent. The suspension of liquidation instructions will remain in effect until further notice.

Combination Rates

In the *Initiation Notice*,¹⁸ the Department stated that it would calculate combination rates for PRC respondents that are eligible for a separate rate in this investigation. This practice is described in Policy Bulletin 05.1, available at <http://enforcement.trade.gov/policy/index.html>. Because the Department has not granted a separate rate to any PRC respondent, the Department has not calculated combination rates for any PRC respondents.

Disclosure

We described the calculations used to determine the estimated weighted-average dumping margins based on adverse facts available in the *Preliminary Determinations* and *Preliminary Determination PRC*. We made no changes to our calculations since these preliminary affirmative determinations. Thus, no additional disclosure of calculations is necessary for the final determinations.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determinations of sales at LTFV and final affirmative determinations of critical circumstances, in part. Because the final determinations in these proceedings are affirmative, section 735(b)(2) of the Act requires that the ITC make its final determinations as to whether the domestic industry in the United States is materially injured, or

¹⁸ See *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Initiation of Antidumping Duty Investigations*, 78 FR 69041, 69046 (November 18, 2013).

threatened with material injury, by reason of imports of NOES from Germany, Japan, Sweden, and the PRC no later than 45 days after our final determinations. If the ITC determines that material injury or threat of material injury does not exist for any country, the associated proceeding will be terminated and all securities posted will be refunded. If the ITC determines that such injury does exist for any country, the Department will issue an antidumping duty order for that country directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APOs in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of APOs is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 6, 2014
Date

Appendix: Japan Issues and Decision Memorandum

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- VII. Recommendation

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